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REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 31-36 have been amended to overcome the Examiner's rejection of the claims and to present the claims in better form for allowance and for possible consideration on appeal. Applicants respectfully request the Examiner to accept the proposed amendments. Claims 14-20 and 28-30 were cancelled without prejudice. No new claims have been added. Therefore, claims 1-13, 21-27 and 31-36 are now are presented for examination.

35 U.S.C. § 112 Rejection

Claims 1-13, 21-27 and 31-36 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirements.

Applicants respectfully disagree with the Examiner and point the Examiner's attention to paragraph 0021 of the Specification and more particularly, to the following passage "flow control agent checks administrative information of content received, e.g., from coupled network element for one or more of a class-of-service (CoS), type-of-service (ToS), and/or a quality-of-service (QoS) indication denoting a priority level, and stores such received content in a buffer commensurate with its identified priority level." Applicants respectfully submit the support for the objected feature is found in the Specification. Accordingly, Applicants respectfully request the withdrawal of the rejection.

35 U.S.C. § 101 Rejection

Claims 31-36 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Claims 31-36 have been amended. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 31-36.

35 U.S.C. § 103 Rejection

Claims 1-13, 21-27 and 31-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Williams, et al., U.S. Patent No. 6,957,269 ("Williams") in view of Lee, et al., U.S. Patent No. 6,957,269 ("Lee").

Claim 1, as amended, recites

A method comprising:

identifying a receive capability associated with one or more priority levels of Ethernet traffic for a network device by scanning a plurality of receive buffers to determine whether content in the buffers has reached or exceeded a predetermined threshold;

if the content in the buffer has reached or exceeded a predetermined threshold, identifying a flow control priority level that is oversubscribed based on monitoring one or more of a class-of-service, a type-of-service, a quality-of-service, and a time sensitivity of the Ethernet traffic, wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic; and

generating a control message including the flow control priority level, the flow control priority level to cause throttling of Ethernet traffic from network devices receiving the control message.

(emphasis added)

Applicants respectfully disagree with the Examiner's characterization of the references and the pending claims. Applicants maintain their previous arguments and provide the following additional remarks.

Williams discloses a "network device that controls the communication of data frames between stations receives data frames having different levels of priority. The

network device identifies the levels of priority and processes the frames based on the priority level. When a congestion condition associated with a resource on the network device occurs, the network device generates a pause frame that includes a priority indicator and transmits the pause frame to at least one station. When a receiving station receives the pause frame, *the receiving station suspends transmission of data frames having a priority corresponding to the priority indicator and continues transmitting frames having other priorities.*" (Abstract; emphasis added)

Lee discloses a "network device that controls the communication of data frames between stations receives data frames having different levels of priority. The network device identifies the levels of priority and processes the frames based on the priority level. When a congestion condition associated with a resource on the network device occurs, the network device generates a pause frame that includes a priority indicator and transmits the pause frame to at least one station. When a receiving station receives the pause frame, the receiving station suspends transmission of data frames having a priority corresponding to the priority indicator and continues transmitting frames having other priorities." (Abstract; emphasis added)

In contrast, claim 1, as amended, in pertinent part, recites "wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic" (emphasis added). The Examiner relies on Williams for this feature. However, Williams discloses the "present invention advantageously modifies the standard MAC control pause frame 300 to include priority-related information, as described in more detail below. According to the present invention, *if a resource associated with data frames of a certain priority becomes congested, the multiport switch 180 may send a control pause frame to request*

suspension of data traffic of that particular priority, without affecting traffic of other priorities. In this manner, the priority field may be used to advantageously enable the present invention to selectively suspend data transmissions.” Claim 1 recites “wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic” (emphasis added). The *suspension of data traffic of a particular priority* as disclosed by Williams is not the same as the flow control priority level denoting an identified priority level above and/or below which the network device is able to receive Ethernet traffic as recited by claim 1. Furthermore, Lee does not make up for any of the deficiencies of Williams. Williams and Lee, neither individually nor when combined, teach or reasonably suggest at least the recited features of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 21 and 31 contain limitations similar to those of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 21 and 31 and their dependent claims.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

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The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

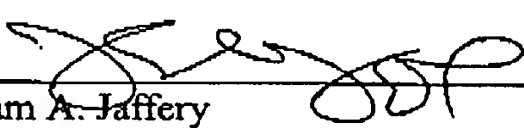
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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Date: July 23, 2007


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